

AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 384

Introduced by Senator Evans

February 15, 2011

~~An act to amend Section 382 of the Code of Civil Procedure, relating to civil actions.~~ *An act to amend Section 70616 of the Government Code, relating to courts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 384, as amended, Evans. ~~Civil actions: joinder: representative actions.~~ *Courts: complex case fees.*

Existing law requires a \$550 fee to be paid by each party to a civil action at the time of filing its first paper if the case is designated as a complex case or whenever the case is determined by the court to be a complex case. Existing law imposes a limitation of \$10,000 on the total amount of fees collected from all plaintiffs, and the same limitation on the total amount of fees collected from all defendants, intervenors, respondents, and adverse parties appearing in a complex case.

This bill would require the payment of a single complex case fee on behalf of all plaintiffs, as specified, and would make other conforming changes. The bill would provide that these changes are declaratory of existing law.

~~Under existing law, if the consent of any person who should have been joined as a plaintiff cannot be obtained, that person may be made a defendant, and the complaint shall state the reason. Existing law authorizes one or more persons to sue or defend for the benefit of all if the question is one of a common or general interest of many persons, or if the parties are numerous and it is impracticable to bring them all before the court.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70616 of the Government Code is
2 amended to read:

3 70616. (a) In addition to the first ~~appearance~~ *paper filing* fee
4 required by Section 70611 or 70613, a *single* complex case fee
5 shall be paid to the clerk *on behalf of all plaintiffs, whether filing*
6 *separately or jointly, either* at the time of the filing of the first
7 paper if the case is designated as complex pursuant to the California
8 Rules of Court. ~~However, the total complex fees collected from~~
9 ~~all plaintiffs appearing in a complex case shall not exceed ten~~
10 ~~thousand dollars (\$10,000), or, if no such designation was made,~~
11 *in each case in which a court determines that the case is a complex*
12 *case pursuant to the California Rules of Court, within 10 calendar*
13 *days of the filing of the court's order.*

14 (b) In addition to the first appearance fee required under Section
15 70612 or 70614, a complex case fee shall be paid on behalf of each
16 defendant, intervenor, respondent, or adverse party, whether filing
17 separately or jointly, *either* at the time that party files its first paper
18 in a case if the case is designated or counterdesignated as complex
19 pursuant to the California Rules of Court, *or, if no such designation*
20 *was made, in each case in which a court determines that the case*
21 *is a complex case pursuant to the California Rules of Court, within*
22 *10 calendar days of the filing of the court's order.* This additional
23 complex fee shall be charged to each defendant, intervenor,
24 respondent, or adverse party appearing in the case, but the total
25 complex fees collected from all the defendants, intervenors,
26 respondents, or other adverse parties appearing in a complex case
27 shall not exceed ten thousand dollars (\$10,000).

28 ~~(c) In each case in which a court determines that the case is a~~
29 ~~complex case pursuant to the California Rules of Court, all parties~~
30 ~~who have not paid the fees required under subdivision (a) or (b)~~
31 ~~shall pay the complex case fee prescribed by those subdivisions~~
32 ~~to the clerk of the court within 10 calendar days of the filing of~~
33 ~~the court's order.~~

1 ~~(d)~~

2 (c) In each case in which the court determines that a case that
3 has been designated or counterdesignated as complex is not a
4 complex case, the court shall order reimbursement to the parties
5 of the amount of any complex case fees that the parties have
6 previously paid pursuant to subdivision (a) or (b).

7 ~~(e) (1) In each case determined to be complex in which the total~~
8 ~~fees actually collected exceed, or if collected would exceed, the~~
9 ~~limit in subdivision (a), the court shall make any order as is~~
10 ~~necessary to ensure that the total complex fees paid by the plaintiffs~~
11 ~~appearing in the case do not exceed the limit and that the complex~~
12 ~~fees paid by the plaintiffs are apportioned fairly among the~~
13 ~~plaintiffs.~~

14 ~~(2)~~

15 (d) In each case determined to be complex in which the total
16 fees actually collected exceed, or if collected would exceed, the
17 limit in subdivision (b), the court shall make any order as is
18 necessary to ensure that the total complex fees paid by the
19 defendants, intervenors, respondents, or other adverse parties
20 appearing in the case do not exceed the limit and that the complex
21 fees paid by those parties are apportioned fairly among those
22 parties.

23 ~~(f)~~

24 (e) The complex case fee established by this section shall be
25 five hundred fifty dollars (\$550), unless the fee is reduced pursuant
26 to this section. The fee shall be transmitted to the Trial Court Trust
27 Fund as provided in Section 68085.1.

28 ~~(g)~~

29 (f) The fees provided by this section are in addition to the filing
30 fee authorized by Section 70611, 70612, 70613, or 70614.

31 ~~(h)~~

32 (g) Failure to pay the fees required by this section shall have
33 the same effect as the failure to pay a filing fee, and shall be subject
34 to the same enforcement and penalties.

35 ~~(i) The complex fees provided for in this section shall be charged~~
36 ~~in all complex cases filed on or after August 18, 2003.~~

37 (h) *The amendments made to this section during the 2011–12*
38 *Regular Session of the Legislature do not constitute a change in,*
39 *but are declaratory of, existing law.*

1 SECTION 1. ~~Section 382 of the Code of Civil Procedure is~~
2 ~~amended to read:~~
3 ~~382. If the consent of any person who should have been joined~~
4 ~~as a plaintiff cannot be obtained, that person may be made a~~
5 ~~defendant, and the complaint shall state the reason. If the question~~
6 ~~is one of a common or general interest of many persons, or if the~~
7 ~~parties are numerous and it is impracticable to bring them all before~~
8 ~~the court, one or more persons may sue or defend for the benefit~~
9 ~~of all.~~